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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) KOLS.053PA									
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>August 20, 2007</u></p> <p>Signature <u><i>Erin M. Nichols</i></u></p> <p>Typed or printed name <u>Erin M. Nichols</u></p>		Application Number <u>10/670,597</u>	Filed <u>09/25/2003</u>								
		First Named Inventor <u>Riku Mettala</u>									
		Art Unit <u>2167</u>	Examiner <u>Rayyan, S.</u>								
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table border="0"><tr><td><input type="checkbox"/> applicant/inventor.</td><td><u><i>Erin M. Nichols</i></u> Signature</td></tr><tr><td><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td><u>Erin M. Nichols</u> Typed or printed name</td></tr><tr><td><input checked="" type="checkbox"/> attorney or agent of record.     <u>57,125</u> Registration number _____</td><td><u>952-854-2700</u> Telephone number</td></tr><tr><td><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td><u>August 20, 2007</u> Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<input type="checkbox"/> applicant/inventor.	<u><i>Erin M. Nichols</i></u> Signature	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<u>Erin M. Nichols</u> Typed or printed name	<input checked="" type="checkbox"/> attorney or agent of record. <u>57,125</u> Registration number _____	<u>952-854-2700</u> Telephone number	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	<u>August 20, 2007</u> Date
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<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.											

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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SERIAL NO. 10/670,597

PATENT APPLICATION

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Appellant:	Mettala et al.	Examiner:	Rayyan, S.
Serial No.:	10/670,597	Group Art Unit:	2167
Filed:	September 25, 2003	Docket No.:	KOLS.053PA
Title:	APPLICATION DATA SYNCHRONIZATION IN TELECOMMUNICATIONS SYSTEM		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this Transmittal Letter and the papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 20, 2007.

By:

Erin M. Nichols

**APPELLANT'S STATEMENT IN SUPPORT OF  
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This statement is presented by Appellant in compliance with the USPTO OG Notice of 12 July 2005 on New Pre-Appeal Brief Conference Pilot Program. Appellant is requesting a pre-appeal brief conference on the belief that the rejections of record are clearly not proper and are without basis. Appellant's request is based upon a clear legal or factual deficiency in the rejection, rather than an interpretation of the claims or the prior art teachings. As such, Appellant believes this request for pre-appeal brief review is appropriate.

Each of the pending claims is rejected under §103(a) over the primary combination of the teachings of U.S. Publication No. 2002/0059256 by Halim *et al.* (hereinafter "Halim") in view of the teachings of U.S. Patent No. 6,308,201 to Pivowar *et al.* (hereinafter "Pivowar"). The primary reference, Halim, is asserted as teaching each of the claimed limitations except a synchronization server which is asserted as being taught by Pivowar.

While Appellant has multiple issues for appeal, the primary purpose for submitting this particular request for review concerns omissions of essential elements required for a *prima facie* §103(a) rejection. Although each of the independent claims is rejected in the final Office Action (dated April 18, 2007) primarily in view of Halim, Halim does not teach several of the claimed limitations and Pivowar does not overcome these deficiencies in Halim's teachings.

Halim, and Pivowar, are directed to data synchronization but do not teach or suggest any initialization of synchronization, as claimed. Therefore, the example limitations at issue for purposes of this request for review relate to 1) a terminal configured to store data in a received configuration message to a memory medium and to retrieve at least part of said data as a response to a need for a synchronization service (*e.g.*, Claim 10), 2) forming and transmitting a configuration message comprising settings of at least a second database (*e.g.*, Claims 1, 10, 12, 21 and 22), and 3) initializing synchronization using data from a configuration message (*e.g.*, each of the independent claims). To establish a *prima facie* §103(a) rejection of at least the independent claims, these limitations must be present in Halim, as the Examiner alleges.

First, Halim has not been shown to teach or suggest a terminal configured to store data in a received configuration message to a memory medium. At pages 2-3 of the Office Action, the Examiner aligns the teachings of Halim as follows:

Appellant's Pending Claims	Halim
configuration message	message including information related to a local update of the local database (paragraph [0009])
second database	local database
terminal (having a first database)	remote computer

The Examiner contends that the buffering of Halim's message at a communication server computer until a communication interface requests data corresponds to the claimed terminal configured to store data in a received configuration message to a memory medium. However, as illustrated in Fig. 2a and described in cited paragraph [0044] the buffering takes place at a server computer before the message is transmitted to the remote computer (asserted terminal).

Therefore, no storage of the message to a memory medium has been identified by the asserted terminal.

The asserted buffering of the message also does not correspond to the claimed retrieval by a terminal as a response to a need for a synchronization service. In contrast, the buffered message of paragraph [0044] is forwarded to a communication interface of the server computer in response to a request of the communication interface and as part of the transmission of the message to the remote computer. As the remote computer has not as yet received the message (it was buffered at the server computer) there is no indication that the remote computer would as yet be aware of any need for a synchronization service. Thus, the relied-upon buffering in a server computer does not correspond to the claimed storage and retrieval of data by a terminal having a first database, as claimed.

Second, Halim has not been shown to teach forming and transmitting a configuration message comprising settings of at least a second database, as claimed. The Examiner contends that by including information related to a local update of a local database or a remote update of a remote database, Halim's messages as described at paragraphs [0009] and [0013], respectively, correspond to the claimed configuration message which includes settings of at least a second database. This contention is in error as there is no indication that the "information related to a local update" includes settings of a local database (asserted as corresponding to the claimed second database). It is noted that the teachings of paragraph [0013] would not correspond as the remote database does not correspond to the claimed second database in view of the Examiner's alignment of Halim's teachings. Further, as identified in Appellant's Specification at paragraph [0006], the claimed settings of a database are not merely data that is the object of synchronization. In contrast, the broad disclosure of Halim's paragraph [0009] and the last sentence thereof suggests that the message sent to the remote computer is a synchronization message such that information related to a local update is the data affected by the update. Thus, Halim does not teach or suggest forming or transmitting settings of a second database in a configuration message, as claimed.

Third, Halim has not been shown to teach or suggest initializing synchronization using data of a configuration message retrieved from a memory medium. The discussion in paragraph [0009] generally teaches a method for synchronizing data by sending information related to a

local update to a remote computer to synchronize a remote database using the information. There is no teaching or suggestion that Halim's synchronization is initialized, as claimed. As described at paragraphs [0020] and [0021] of Appellant's Specification and claimed, initialization occurs prior to synchronization and is a separate operation. No discussion has been identified in Halim that teaches or would suggest an initialization step, or more specifically, initializing synchronization using data of a configuration message, as claimed.

Halim is solely relied upon as teaching these limitations, and the teachings of Pivowar have not been asserted, or shown, to overcome the above-discussed deficiencies in the teachings of Halim. For example, Pivowar is directed to synchronizing data but also makes no mention of initializing synchronization via data transmitted in a configuration message, as claimed. The further references relied upon in the rejections of the dependent claims have also not been asserted or shown to teach these limitations absent in Halim and Pivowar. Thus, each of the asserted combinations of references fails to teach or suggest these limitations rendering the §103(a) rejections unsupported and improper.

It is respectfully submitted that there is an omission of an essential element needed for a *prima facie* obviousness rejection. Halim does not teach or suggest at least initializing synchronization using data of a configuration message. Halim is solely relied upon as teaching these claimed features. Because Halim does not involve or otherwise address initializing synchronization using data of a configuration message, Appellant believes these claim limitations are improperly being overlooked, and consequently there is an omission of an essential element(s) required for a *prima facie* rejection.

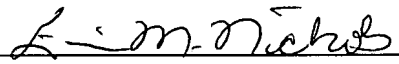
It is Appellant's position that the Examiner's reliance on Halim as teaching initializing synchronization using data of a configuration message is inappropriate, as Halim does not address this.

Appellant believes that this statement, when viewed together with the prosecution history, sets forth clear grounds for a finding that the rejections based upon Halim and Pivowar are improper and without basis.

The undersigned is of record and with authority to prosecute the appeal on behalf of the Assignee.

Respectfully submitted,

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